

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 11-CR-20148

PAUL ANTHONY DELGADO,

HON. GEORGE CARAM STEEH

Defendant.

ORDER ALLOWING DEFENDANT TO FILE GROUNDS FOR 28 U.S.C.A. § 2255
MOTION WITHIN 30 DAYS OR FACE DISMISSAL OF PETITION WITH PREJUDICE

Petitioner Paul Delgado pled guilty to an indictment which charged a violation of 21 U.S.C. §§ 841(a)(1) and 846, Conspiracy to Possess with Intent to Distribute Controlled Substances, including 500 grams or more of cocaine. This court entered and filed judgment on May 15, 2012. On May 14, 2013, Mr. Delgado filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody. Under 28 U.S.C.A. § 2255(f), “A 1-year period of limitation shall apply to a motion under this section. The limitation shall run from . . . (1) the date on which the judgment of conviction becomes final.” 28 U.S.C.A. § 2255.

The only information Mr. Delgado provided in his motion addressed his conviction: the offenses charged, date of conviction, and length of sentence. He then indicated he had two grounds for his claim that he is being held in violation of the Constitution, laws, or treaties of the United States: ineffective assistance of counsel, and “breach of contract (plea agreement).” The statement “Memorandum of Law Forthcoming” follows both

grounds. The motion includes no acts or omissions by Mr. Delgado's attorney that are asserted to amount to ineffective assistance of counsel; also lacking are any facts or statements to inform the court concerning Delgado's second claim.

In Ryals v. United States, 2009 WL 595984 (E.D. Tenn. 2009), where the defendant similarly omitted a factual basis in his form § 2255 filings, the court gave the defendant additional time to file an amendment to his § 2255 petition. Id. at *13 (citing Gardner v. United States, 178 F.3d 1294 (6th Cir. 1999)). This court will follow suit. Mr. Delgado must file an amendment within thirty (30) days of the date of this order alleging the facts surrounding the claims in his petition. Failure to file the amendment will result in the dismissal of petitioner's claim without further notice.

IT IS SO ORDERED.

Dated: August 1, 2013

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 1, 2013, by electronic and/or ordinary mail and also on Paul Anthony Delgado #27856-039, Federal Medical Center Lexington, P. O. Box 14500, Lexington, KY 40512.

s/Barbara Radke
Deputy Clerk